
TITLE 312 NATURAL RESOURCES COMMISSION

Economic Impact Statement

LSA Document #06-193

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

(Administrative Cause No. 06-077D)

The Indiana Department of Natural Resources (DNR) estimates that the proposed rule will impose requirements or costs on only a few small businesses who are licensed game breeders.

The proposed rule in [312 IAC 9-1-9.6](#) only provides further clarification of the new law in [312 IAC 9-2-14](#) to define immediate family for law enforcement purposes. The proposed changes in [312 IAC 9-3-5](#), [312 IAC 9-3-16](#), [312 IAC 9-3-17](#), and [312 IAC 9-4-11](#) only affect individual hunters who hunt deer, eastern cottontail rabbits, squirrels, and wild turkeys with changes to season dates and locations where hunting may occur. All of the proposed changes for reptiles and amphibians ([312 IAC 9-5-2](#), [312 IAC 9-5-4](#), [312 IAC 9-5-7](#), and [312 IAC 9-5-9](#)) simply update the common and scientific names of several species of turtles, snakes, and frogs for consistency with the Society for the Study of Amphibians and Reptiles and American Society of Ichthyologists and Herpetologists due to new research and DNA analysis.

The proposed changes to the game breeder license are primarily only clarifications of existing requirements. The 8 foot fence requirement is currently in an administrative rule for the possession of white-tailed deer administered by the Indiana State Board of Animal Health ([345 IAC 2-7-3](#)) and is required for all existing game breeders possessing white-tailed deer. This is not a new requirement. By adding this to our administrative rules, it can be more easily enforced by DNR conservation officers. Licensed game breeders, who may or may not qualify as a small business, are already required to keep a transaction record and submit an annual report. The expiration date of the license is currently December 31 of the year of issuance, as stated on the license itself (State Form #38839), and the annual report form is already due February 15 of each year ([312 IAC 9-10-4\(j\)](#)). The expiration date of the license and modifications to the record keeping requirements are only needed for clarification of the law and for law enforcement purposes.

Estimated Number of Small Businesses Subject to This Rule:

The Indiana Department of Natural Resources (DNR) estimates that approximately 300 licensed game breeders, who may qualify as small businesses, will be directly affected by some of the proposed rule changes. The DNR has the authority to promulgate rules in accordance with the requirements found in [IC 4-22-2-23](#), [IC 14-22-2-6](#), and [IC 14-22-20-1](#).

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

In [312 IAC 9-10-4](#), the requirements that may apply to a small business are requirements to have an 8 foot perimeter fence for the possession of white-tailed deer and the inventory keeping and annual reporting requirements. Licensed game breeders who possess white-tailed deer must already have an 8 foot fence and keep a transaction record and submit an annual report. The DNR estimates that it will cost less than \$10 per year (one hour) for a game breeder to maintain the additional information required in this proposed rule, since a transaction record and an annual report are already required by law in [312 IAC 9-10-4](#).

The license already expires at the end of each calendar year (State Form # 38839) and the annual report is already due by February 15 of each year, so these are not new administrative costs for licensed game breeders. If proper transaction records are kept, it would be very easy for a game breeder to total the numbers required for the annual report and total up the number on hand each year. The annual administrative costs for a licensed game breeder, who may operate as a small business, would take approximately 6 hours each year, resulting in an annual administrative cost of \$60 per year (\$10 per hour x ½ hour per month).

Estimated Total Annual Economic Impact on Small Businesses:

The DNR estimates that there will be a minor economic impact on small businesses as a result of compliance with these rules.

Justification of Requirements of Costs on Small Businesses Where Rule Is Not Expressly Required by Law:

A small business, who wants to possess white-tailed deer, will have to have an 8 foot perimeter fence in order to become a licensed game breeder and possess white-tailed deer. This requirement is already in an administrative rule for the possession of white-tailed deer to meet registration requirements by the Indiana State Board of Animal Health ([345 IAC 2-7-3](#)). A licensed game breeder would want to ensure that deer that are purchased and bred in captivity are not able to escape and that wild white-tailed deer cannot get into the enclosure in order to maintain the genetic integrity of the captive deer. Fewer than 5 new game breeders who operate as a small business are expected to obtain a new game breeder license each year. An 8 foot perimeter fence would cost each breeder (small business) approximately \$2,000. This would be a one-time cost.

Supporting Data, Studies or Analyses: The number of licensed game breeders and estimated number of new

game breeders was obtained from the list of license holders available from the DNR Division of Fish and Wildlife. The estimated cost of the fence is based on an estimate received from a fencing company.

Regulatory Flexibility Analysis of Alternative Methods:

Explanation of Preliminary Determination:

In [312 IAC 9-10-4](#), the requirement for licensed game breeders that are small businesses could be reduced with one of the following options:

- (1) not require the complete inventory with the number of births and deaths and number on hand; or
- (2) not require an annual report; or
- (3) not require the transaction record.

The paperwork is necessary to ensure that the animals were obtained lawfully and to protect wild populations in Indiana from illegal take and sale. A licensed game breeder can make additional revenue by selling the meat from the deer and other products (antlers, etc.) as a Cervidae Livestock Operation in accordance with [IC 14-22-20.5](#) governing cervidae and cervidae products. The sale of meat from white-tailed deer in Indiana has not been legal in the past. Therefore, small businesses who own cervids now have a new source of revenue in Indiana, but the animals must be slaughtered in compliance with the Humane Slaughter Act in [IC 15-2.1-24](#). This new source of revenue could amount to hundreds of dollars per business.

The DNR would not be able to exempt small businesses from this proposed rule because the law needs to be the same for all license holders.

It is necessary to have the expiration date of the license in the administrative rule for law enforcement purposes.

In [312 IAC 9-10-4](#), the requirement for licensed game breeders that are small businesses to have an 8 foot perimeter fence could be reduced with one of the following options:

- (1) not add this requirement to [312 IAC](#) (although it is in law in [345 IAC 2-7-3](#)); or
- (2) require a fence that is smaller in height.

A licensed game breeder would want to ensure that deer that are purchased and bred in captivity are not able to escape and that wild white-tailed deer cannot get into the enclosure in order to maintain the genetic integrity of the captive deer. Furthermore, with the possibility of Chronic Wasting Disease (CWD) and tuberculosis (both diseases are found in surrounding states in wild deer), it is in the best interest of the game breeder and the DNR to not allow captive-raised deer and wild deer to mingle. Furthermore, the DNR must be able to ensure that wild deer are not taken illegally by being able to enter into an enclosure and not escape.

Supporting Data, Studies or Analyses: The DNR researched the laws governing the possession and registration of cervids with the Indiana State Board of Animal Health in [345 IAC 2](#). The DNR relied on news releases from neighboring states and confirmation from the DNR's deer management biologist regarding the status of Chronic Wasting Disease and Tuberculosis in wild deer in neighboring states.

Posted: 09/27/2006 by Legislative Services Agency

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